

**BEFORE THE COMMISSIONER, H.R. & C.E.ADMN.DEPARTMENT,
CHENNAI-34.**

Tuesday the 4th day of April, Two thousand and Seventeen.

Present: Dr.M.Veera Shanmugha Moni,
Commissioner.

I.A.No.1& 2/2016 in A.P.24/2016 and A.P.25/2016 D2

Between

R.Raja Ram

.... Petitioner in I.A.1/2016

1.G.Kannabiran

...Petitioners in I.A.2/2016

2.S.Pazhani

3.L.Panneerselvam

And

1. R.Arjunan

...Respondent/Appellant

2. The Joint Commissioner,
HR & CE Admn.Department,
Vilupuram

3. The Inspector/Fit person,
Arulmigu Dharmaraja Group of Temples ,
Kannakurukkai,

Hindu Religious and Charitable
Endowment Board, Chengam

....Respondents/Respondents

In the matter of Arulmigu Pillayar and Dharmaraja Temple,
Kannakurukkai village, Paichal post, Chengam Taluk, Tiruvannamalai District.

The petitions filed to implead as party respondent in the Appeal Petitions filed under Section 54(4) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 27.6.2016 of the Joint Commissioner, Villupuram in Pro.Rc.No.7694/2013 passed under Section 54(3) of the Act.

Common Order in I.A.No.1& 2/2016 in A.P.24/2016 and A.P.25/2016 D2
dated: 04.04.2017

The above petition came up for final hearing before me on 14.03.2017, Thiru.M.Mariappan, Counsel for the petitioners in I.A.No.1/2016, Thiru.K.R.Kumar, Counsel for the petitioner in I.A.No.2/2016 and Thiru.M.Rukmangathan, Counsel for the respondent/appellant. Upon hearing their arguments and having perused the connected records and the matter having stood over for consideration till this day, the following order is passed.

ORDER

The above Petition filed by the petitioner's to impleaded them in the appeal petitions filed by the respondent/appellant.

1. The petitioner in I.A.1/2016 has stated that he had filed a W.P.No.21959/2016 praying to direct the respondents to consider his representation dated 09.01.2012 u/s.53(2)(b)(c). The said Writ Petition was disposed by the Hon'ble High Court by order dated 25.09.2013 with direction to the Joint Commissioner to consider and pass appropriate orders on his representation. The respondent/appellant has committed several violations. He misappropriated the temple funds, not maintained the temple properly and the temple is now in dilapidated condition. He never allowed the public to worship. He has not maintain proper accounts and leased out the lands to 3rd party without permission from the department. He had filed relevant documents and written argument before the Joint Commissioner, Vilupuram to take decision in the above matter. Hence, he is a necessary party to the appeal petition. If the petitioner is not allowed, the interest of the temple will not be served and he will be put to irrepayable loss and hardship and no prejudice will be caused to the respondent/appellant.

2. The petitioners in the I.A.No.2/2016 has stated that they are living in the said village and staunch devotees of the above temple. They are performing poojas, conducting all rituals and ceremonies of their family and participating in all festivals of the temple, hence they are entitled for impleading as respondent in the above appeal petition as interested person. The 2nd respondent herein gave a petition on 21.01.2013 on behalf of the village people regarding worship and Deities Veethi ulla under to the Joint Commissioner, Vilupuram and the appellant was instructed by the Joint Commissioner to strictly comply with the provisions of the HR&CE Act. In the impugned order the Joint Commissioner has stated that 7 complainant lodged by them have been proved. Since they are living in the same village and possess documents to support their case, they shall be impleaded as necessary parties to the

appeal petition. Otherwise, they will be put to irreparable loss and hardship while cannot be compensated by monetary value.

3. In the Counter Affidavit , the respondent/appellant has stated that the details given in the I.A. are unnecessary to the appeal. The Joint Commissioner has instituted Sec 53(2) proceeding on the basis of the direction given by the Hon'ble High Court and there is no application of mind on the part of the Joint Commissioner. There are no evidence for many items stated in the IA petition. The litigation is between the respondent/appellant and the department the third party have no right to interfere with the same. If a third party is allowed to be impleaded, then it will become regular appeal u/s.69(1) of the Act. Therefore, the applicants are not party entitled to be impleaded in the appeal petition. The applicants in I.A.2/2016 had already filed on I.A. in pending A.S.No.885/2000 end the same was dismissed. The same theory are applied here also.

4. I heard Thiru.M.Mariappan, counsel for the petitioner in I.A.1/2016, Thiru.K.R.Kumar, Counsel for the petitioners in I.A.2/2016 and Thiru.M.Rukmangathan, counsel for the respondent/appellant.

5. The proceeding u/s.53 of the Act was initiated against the respondent/appellant based on the representation of the petitioner in I.A.No.1/2016 as directed by the Hon'ble High Court in the order dated 25.09.2013 made in the W.P.No.21459/2012. The Hon'ble High Court has directed the Joint Commissioner, Villupuram to consider the petitioner's representation dated 09.01.2012 in accordance with law and on its own merits and give notice to the concerned parties. As the Joint Commissioner has conducted the enquiry based on the representation and documents filed by the petitioner herein, his presence will help this forum to take a decision in the appeal petitions. Hence, he is a necessary party to the said appeal petitions.

6. The petitioners in the I.A.2/2016 are living in the same village and devotees of the temple. They are claiming that they used to attend the performance of worship, pooja, festivals etc., The respondent/appellant was charged with not allowing the people to worship the temple, not conducted the

festivals, utilizing the donation and contribution from the Hundial for his own use and leased out the property to the 3rd parties without sanction of the authorities. As the petitioners are belonging to the same village and used to attend the performance of the worship, they are coming under the definition of “ the persons having interest” as defined u/s.6(15) of the Act. Sec 6(15) is **“(a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;**

(b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;

(c) in the case of a specific endowment, a person who is entitled to attend at or is in the habit of attending the performance of the service or charity, or who is entitled to partake or is in the habit of partaking in the benefit of the charity”

As the petitioners are in the habit of attending the performance of worship in the temple they are the persons having interest in the temple. Further, the petitioners in both I.A’s were impleaded in the Revision Petition filed by the respondent/appellant challenging the previous order passed by the Joint Commissioner, Villupuram.

The Hon’ble Supreme Court of India in their decision reported in Maria Margarida Sequeria Fernandes Vs. Erasmo Jack de Sequeria, AIR 2012 SC 1727, held that Court deciding dispute is duty bound to find out the truth and every endeavor should be made to find out the truth. In paragraph 52, the Supreme Court held thus:-

52. Truth is the foundation of justice. It must be the endeavor of all the judicial officers and judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Court must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth”.

By impleading the petitioners herein as proposed respondents truth of the facts if any shall be unearthed.

Hence the oral arguments put forth by the petitioners and the documents filed by them will help this forum to take a right decision in the appeal petitions. Further by impleading the petitioners as party respondents no prejudice will be caused to the respondent/appellant and he will get opportunity to defend his side and disprove the arguments put forth by the petitioners. He has got every right to contest the documents filed by them.

Therefore, for the foregoing reasons stated supra, I am convinced that the petitioners in both the Interlocutory Application are necessary parties to the present appeal petition and the above Interlocutory Applications are liable to allowed. Accordingly I.A.1 & 2/2016 are hereby allowed and the petitioners in the said IA's are here by impleaded as Respondent 3 to 6 in the appeal petitions. The respondent/appellant is hereby directed to file amended appeal petition. The main appeal petition is posted for hearing on 18.04.2017 at 2.30 Pm

/typed to dictation/

Sd./- M.Veera Shanmugha Moni
Commissioner

/t.c.f.b.o./

Superintendent

To

1. The Petitioners in I.A.No.1/2016 through Thiru.M.Mariappan, Advocate, No.14, 5th Floor, Sungurama Chetty Street, Parry's ,Chennai.
2. The Petitioners in I.A.2/2016 through Thiru.K.R.Kumar, Advocate, No.20, Pavalakundru, Othavadai Street, Tiruvannamalai.
3. The respondent/appellant through Thiru.M.Rukmangathan, Advocate, No.67/20, Canal Bank Road, R.A.Puram, Chennai -600 028.

Copy to

4. The Joint Commissioner, HR & CE Admn.Dept., Villupuram
5. The Assistant Commissioner, HR & CE Admn.Dept.,Tiruvannamalai.
6. Extra